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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 19 August 2009 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Hungary to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea, and has the honour to provide in the annex to the present note verbale information pursuant to paragraph 22 of Security Council resolution 1874 (2009) on the steps taken by the Government of the Republic of Hungary with a view to implementing effectively the provisions of paragraph 8 of Security Council resolution 1718 (2006), as well as paragraphs 9 and 10 of Security Council resolution 1874 (2009), and financial measures set out in paragraphs 18, 19 and 20 of the latter resolution.

The implementation by the Republic of Hungary of the restrictive measures against the Democratic People's Republic of Korea imposed by Security Council resolutions 1718 (2006) and 1874 (2009) is based both on measures adopted by the European Union and national measures.

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Annex to the note verbale dated 19 August 2009 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

1. Measures adopted by the European Union

The Republic of Hungary, as a Member State of the European Union (EU), implements the provisions of United Nations Security Council resolutions that fall within the scope of competence of the EU by means of common instruments. Within the framework of the EU's Common Foreign and Security Policy (CFSP), the Security Council resolutions are transposed via Common Positions, which require further national implementing measures, and Council Regulations, which are binding in their entirety and directly applicable in all member States of the European Union.

The Republic of Hungary and the other member States of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea (DPRK) imposed by Security Council resolutions 1718 (2006) and 1874 (2009) by taking the following measures:

- Council Common Position 2006/795/CFSP of 20 November 2006 concerning restrictive measures against the DPRK, as amended by Council Common Position 2009/573/CFSP of 27 July 2009.

Council Common Position 2006/795/CFSP as amended, confirms the EU's commitment to the implementation of all of the measures contained in Security Council resolutions 1718 (2006) and 1874 (2009), and provides the basis for specific EU implementing measures within the scope of the resolutions, notably:

- Complete arms embargo in relation to the DPRK;
- Export ban on certain other items, in addition to those determined by the sanctions Committee established pursuant to Security Council resolution 1718 (2006), which could contribute to the DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes;
- Travel ban, assets freeze and other financial measures applied in respect of the persons and entities designated by the sanctions Committee established pursuant to Security Council resolution 1718 (2006) or the Council of the European Union, either by reason of their promotion or support of the DPRK's programmes as mentioned above or because they provide financial services or transfer financial or other assets or resources that could contribute to those programmes;
- Enhanced monitoring over the activities of financial institutions within the jurisdiction of EU member States with certain financial entities linked to the DPRK;
- Additional information requirements for aircraft and vessels transporting cargo to and from the DPRK.

The EU will shortly adopt a Council Decision implementing Common Position 2006/795/CFSP, as amended, and establishing, for the purpose of the travel ban and assets freeze, the list of persons and entities in accordance with the reports of the

sanctions Committee established pursuant to Security Council resolution 1718 (2006) dated 24 April 2009 and 16 July 2009.

- Council Regulation (EC) No. 329/2007 concerning restrictive measures against the DPRK of 27 March 2007, as amended by Commission Regulation (EC) No. 117/2008 of 28 January 2008, Commission Regulation (EC) No. 389/2009 of 12 May 2009 and Commission Regulation (EC) No. 689/2009 of 29 July 2009.

Council Regulation (EC) No. 329/2007 implements, with certain exemptions as provided for in Security Council resolution 1718 (2006), the following restrictive measures:

- Ban on selling, supply, transfer or export of goods and technology which could contribute to the DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes, as determined by the sanctions Committee established pursuant to Security Council resolution 1718 (2006), and those included in the EU Common List of Military Equipment (annex I of the said Council Regulation);

- Ban on purchase, import or transport of goods and technology as specified above from the DPRK (annex I of the said Council Regulation);

- Ban on provision of financing, financial or technical assistance related to goods and technology as specified above, or to any natural or legal person, entity or body in, or for use in, the DPRK (annex I of the said Council Regulation);

- Ban on export of luxury goods to the DPRK (annex III of the said Council Regulation);

- Freezing of funds and economic resources of persons, entities and bodies engaged in, or providing support for the said DPRK programmes, as designated by the sanctions Committee established pursuant to Security Council resolution 1718 (2006), and the prohibition of making funds or economic resources available to such natural or legal persons, entities or bodies (annex IV of the said Council Regulation).

Commission Regulation (EC) No. 117/2008 amends Council Regulation (EC) No. 329/2007 by including the list of goods and technology subject to the export and import ban (other than luxury goods) as set out in annex I of the said Council Regulation, in accordance with the determinations made on 1 November 2006 by the sanctions Committee established pursuant to Security Council resolution 1718 (2006).

Commission Regulation (EC) No. 389/2009 amends Council Regulation (EC) No. 329/2007 by including the entities designated by the sanctions Committee on 24 April 2009 on the list of persons, entities and bodies subject to the assets freeze as set out in annex IV of the said Council Regulation.

Commission Regulation (EC) No. 689/2009 of 29 July 2009 amends Council Regulation (EC) No. 329/2007 by including goods in its annex I, and persons and entities subject to the assets freeze in its annex IV, in accordance with the determinations made by the sanctions Committee on 16 July 2009.

The adoption of a Council Regulation implementing certain restrictions provided for in Council Common Position 2009/573/CFSP of 27 July 2009 may prove necessary.

- Council Regulation (EC) No. 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement and its subsequent amendments.

Council Regulation (EC) No. 539/2001 requires nationals of the DPRK to be in possession of a visa when entering the European Union.

2. National legislation and measures taken by the Republic of Hungary

The Republic of Hungary implements its obligations under Security Council resolutions 1718 (2006) and 1874 (2009) concerning the restrictive measures against the DPRK through its existing national legislation, legal instruments and measures taken by the Government of the Republic of Hungary.

(a) Arms embargo and ban on related brokering services

Regarding the export and import ban on all arms and related materiel, as well as technical transactions, technical training, advice, services or assistance, as determined by paragraphs 9 and 10 of Security Council resolution 1874 (2009) and paragraph 8 (a), subparagraphs (i) and (ii), 8 (b) and 8 (c) of Security Council resolution 1718 (2006), the Republic of Hungary has legislation in place requiring that an export licence must be obtained for any supply, sale, transfer, transit or export of arms and any related materiel to third countries, as well as for the provision of brokering services and other services related to military activities.

The national legislation, together with Council Common Position 2006/795/CFSP as amended by Council Common Position 2009/573/CFSP of 27 July 2009 and Council Regulation (EC) No. 329/2007 as amended, provide the basis for enforcement of the arms embargo against the DPRK and the ban on related brokering services.

Government Decree 16/2004 (II.6) on the licensing of export, import, transfer and transit of military equipment and related technical assistance is the relevant national legislation in this regard. Paragraph 5 on Restrictions and Embargos of this Government Decree provides that the export and transit of military equipment and technical assistance is not permissible to countries which are subject to arms restrictions (such as restrictions on the supply of arms or any related materiel, the provision of any assistance, advice or training related to military activities) imposed by the United Nations Security Council, the Council of the European Union or the Organization for Security and Cooperation in Europe.

The competent Hungarian authorities, i. e. the Ministry of Defence, the Ministry for National Development and Economy and the Hungarian Trade Licensing Office, have been informed of the provisions of Security Council resolutions 1718 (2006) and 1874 (2009) and have taken the necessary measures to implement them. The Field Engineering and Export Supervising Authority of the Hungarian Trade Licensing Office keeps the public continuously informed via its Internet home page as well as through personal consulting with those concerned.

According to the Ministry of National Development and Economy and the Department of Conventional Arms Trade Control and Export Control of the Hungarian Trade Licensing Office, there has been no trade of conventional arms or dual use goods effectuated with DPRK in the past years.

(b) Embargo on luxury goods

The implementation of the ban on export of luxury goods, as set forth in paragraph 8 (a) (iii) of Security Council resolution 1718 (2006), falls within the exclusive competence of the European Community.

As indicated above, Council Regulation (EC) No. 329/2007, as amended, transposes the present provision (art. 4) and annex III of the same regulation contains the list of luxury goods subject to the ban.

(c) Inspection of cargo

Regarding the implementation of the inspection of cargo provided for in paragraph 8 (f) of Security Council resolution 1718 (2006), as well as in paragraphs 11, 12 and 13 of Security Council resolution 1874 (2009), the Hungarian Customs and Finance Guard is the competent authority. For details of implementation, please refer to point (c) of the annex of the note verbale dated 14 November 2006 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee established pursuant to Security Council resolution 1718 (2006).

(d) Financial measures

The implementation of the financial measures imposed by paragraphs 18, 19 and 20 of Security Council resolution 1874 (2009), in addition to the financial assets freeze as set forth in paragraph 8 (d) of Security Council resolution 1718 (2006), fall within the exclusive competence of the European Community.

As indicated above, Council Common Position 2006/798/CFSP as amended by Council Common Position 2009/573/CFSP on 27 July 2009, and Council Regulation (EC) No. 329/2007 as amended, transpose the financial measures set forth in Security Council resolutions 1718 (2006) and 1874 (2009).

The EU regulations are transposed into the Hungarian legal system through Act 180 of 2007 on the execution of the financial and economic restrictive measures adopted by the European Union. According to the provisions of this Act and other special legislation, the Hungarian Customs and Finance Guard is the competent authority responsible for implementing, under the supervision of the Ministry of Finance, the directly applicable legal instruments of the European Community.

Moreover, the Hungarian Financial Supervisory Authority, also operating under the supervision of the Ministry of Finance, keeps the service providers informed of the restrictive measures in force on its Internet home page, and controls the fulfilment of these measures accordingly. Immediately after their adoption, information is made available to the public concerned, including the detailed content of the sanctions imposed by Security Council resolutions.

(e) Travel ban

With respect to travel restrictions imposed by paragraph 8 (e) of Security Council resolution 1718 (2006), a ban of entry into and transit through the territory of the Republic of Hungary is applicable, in accordance with the international obligations of Hungary, as set forth in paragraph 38 of Act 1 of 2007 on the entry and residence of persons having the right of free movement and residence and paragraph 43 of Act 2 of 2007 on entry and residence of citizens of third States.

The said national legal acts, together with Council Common Position 2006/795/CFSP as amended by Council Common Position 2009/573/CFSP of 27 July 2009 and Council Regulation (EC) No. 539/2001, provide the legal basis for refusal of admission and denial of requests for a visa.

The Hungarian Office of Immigration and Nationality, together with the National Security Office, are the national authorities responsible for the implementation of the said travel restrictions. Based on the notification of the Ministry of Foreign Affairs of the Republic of Hungary, these authorities have taken all necessary measures to implement the restrictions set forth in the Security Council resolutions in question.